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*Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108*

Advisory Opinion

May 29, 2001
AO-01-10

Leonard A. Maggiolino, Treasurer
Committee to Elect William P. Nagle, Jr.
36 Beattie Drive
Florence, MA 01062

Re: Candidate's Appointment as Clerk Magistrate

Dear Mr. Maggiolino:

This letter is in response to your May 14, 2001 request for guidance regarding House Majority Leader William P. Nagle's recent appointment as Clerk Magistrate of the Ware District Court. As the treasurer of the Committee to Elect William P. Nagle, Jr. ("the Committee"), you have asked the following questions regarding the Committee's options after Representative Nagle has been sworn in as Clerk Magistrate:

QUESTION 1

May the Committee remain in existence after Mr. Nagle assumes the position of Clerk Magistrate?

RESPONSE 1

Yes. The Committee may remain in existence after Mr. Nagle leaves office and assumes the position of Clerk Magistrate as long he believes that he may seek nomination or election to public office in the future. Under these circumstances, the Committee's continued activity would be appropriate because the former representative would still qualify as a "candidate" for the purposes of the campaign finance law. See M.G.L. c. 55, § 1; also AO-93-12.

On the other hand, the Committee should dissolve in accordance with the residual funds clause of M.G.L. c. 55, § 18 if, upon assuming the position as Clerk Magistrate, Mr. Nagle decides that he will not seek public office in the future.

QUESTION 2

Assuming the Committee does not have to dissolve, may the Committee (a) accept or make political contributions, (b) make charitable contributions and expenditures to maintain the Committee's affairs, or (c) donate tangible assets to Prevent, Inc., a tax-exempt organization which is the governing body of the Honor Court based in Florence, MA?

RESPONSE 2

Generally speaking within the context of the Massachusetts campaign finance law, M.G.L. c. 55, the answer to each of the above is yes. As long as Mr. Nagle remains a candidate for the purposes of the campaign finance law, the Committee may continue to raise and spend funds to enhance his political future in accordance with M.G.L. c. 55 and its companion regulations.¹ In addition, the Committee may donate assets to a tax-exempt organization as long as the donation complies with the criteria for charitable donations set forth at 970 CMR 2.06(3)(a).² See M-84-02, Part II(e) (A copy of this publication has been enclosed for your convenience).

Please note that this opinion is issued on the basis of your letter and **solely within the context of the campaign finance law**. I urge you to contact the Supreme Judicial Court for an opinion as to whether the above referenced activity is consistent with the Cannon 6 (Political Activity and Elective Office) of the Code of Professional Responsibility for Clerks of the Courts. See S.J.C. Rule 3:13.

Please contact us in the future if you have further questions regarding any aspect of the campaign finance law.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive, flowing style. To the right of the signature is a vertical line.

Michael J. Sullivan
Director

Enclosure (M-98-04)
MJS:bp

¹ For example, M.G.L. c. 55, § 6 states, in relevant part, that political committees, such as yours, may, "receive, pay and expend money or other things of value for the enhancement of the political future of the candidate or the principle, for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use."

² 970 CMR 2.06(3)(a) limits charitable donations to circumstances where: (1) the contribution is made to an entity subject to M.G.L. c. 12, § 8(f), M.G.L. c. 67 or M.G.L. c. 180; (2) neither the candidate, treasurer, or any Committee official is a trustee, officer, principal or beneficiary or involved in any manner in the operation of the entity; (3) neither the candidate, treasurer, or any Committee official is related by blood or marriage to any trustee, officer, principal or beneficiary of the entity; (4) as a customary and usual practice, the Committee has previously made charitable donations; and (5) the candidate or Committee will receive publicity and foster political goodwill as a result of making the contribution.